

## **EXPLANATORY MEMORANDUM TO**

# **The Health Protection (Coronavirus, International Travel and Operator Liability and Information to Passengers) (Amendment) Regulations (Northern Ireland) 2021**

**S.R. 2021 No. 189**

## **1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Department of Health and is laid before the Northern Ireland Assembly to accompany the Health Protection (Coronavirus, International Travel and Operator Liability and Information to Passengers) (Amendment) Regulations (Northern Ireland) 2021.
- 1.2 The Statutory Rule is made under sections 25B and 25F(2) of the Public Health Act (Northern Ireland) 1967 (“the 1967 Act”) and is subject to negative resolution.

## **2. Purpose of the Regulations**

- 2.1 The Statutory Rule amends the Health Protection (Coronavirus, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (“the Passenger Information Regulations”) to remove an operator’s liability for bringing a passenger who has not completed a Passenger Locator Form or is not in possession of a negative pre-departure test result to Northern Ireland if that passenger is being lawfully compelled to travel to the United Kingdom in the course of an extradition, prisoner transfer or deportation.
- 2.2 An amendment is also made to revise the on-board public health announcement on commercial passenger conveyances arriving in Northern Ireland.
- 2.3 The Statutory Rule also amends the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the International Travel Regulations”).
- 2.4 Schedule 1 (Red list countries) is amended to include Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda.
- 2.5 Schedule 2 (Green list countries – exempt countries, territories and parts of countries or territories) is amended to include Anguilla, Antarctica/British Antarctic Territory, Antigua and Barbuda, Balearic Islands, Barbados, Bermuda, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, Pitcairn Islands, Turks and Caicos Islands.
- 2.6 Schedule 4 (Persons who are exempt) is amended to include an exemption for passengers transiting to Guernsey, Jersey or the Isle of Man via Northern Ireland from the requirement to possess a day 2/8 testing package on arrival.
- 2.7 Schedule 4 is also amended to remove the residency exemption for specialist aerospace engineers or workers so that they are only exempt from self-isolation when undertaking exempt activity.
- 2.8 Schedule 8 is amended to remove the aircraft ban from Argentina, Brazil, Cape Verde, Chile, Ethiopia, The Maldives, Oman, Qatar, South Africa and United Arab Emirates.

2.9 The Statutory Rule came into operation at 4.00 am on 30 June 2021.

### **3. Matters of special interest to the Northern Ireland Assembly**

3.1 The Statutory Rule is made under the 1967 Act, in breach of the 21 day rule. This has been necessary to introduce the regulation within a tight timeframe, to ensure that managed isolation and mandatory post arrival testing could proceed in Northern Ireland prior to the resumption of direct international flights to NI.

3.2 The principal Regulations provide that the Department of Health must review the need for the measures imposed by them at least once every 28 days.

3.3 The principal Regulations cease to have effect at the 24 March 2022.

### **4. Legislative Context**

4.1 The 1967 Act and regulations made under it provide a legislative framework for health protection in Northern Ireland.

4.2 Part 1A of the 1967 Act, as inserted by the Coronavirus Act 2020 (“the 2020 Act”), provides a legal basis to protect the public from threats arising from infectious disease or contamination with coronavirus, and includes powers to impose restrictions or requirements on people, and in relation to things and premises, for use in rare circumstances where voluntary cooperation cannot be obtained. Overall, Part 1A of the 1967 Act sets out a framework for health protection which requires much of the detailed provisions to be delivered through regulations.

4.3 Section 25C of the 1967 Act provides a power for the Department of Health to make regulations to prevent, protect against, control or provide a public health response to the incidence or spread of infection or contamination with coronavirus in Northern Ireland. The threat can come from outside Northern Ireland.

4.4 These Regulations are made under section 25B to enable a number of public health measures to be taken for the purpose of preventing danger to public health from arrivals into Northern Ireland. They will also be made under 25F(2) which allows for enforcement provisions to be included.

### **5. Policy background**

5.1 The temporary modifications to the 1967 Act made by the Coronavirus Act 2020 provide regulation making powers that were previously not available in Northern Ireland.

5.2 The Health Protection (Coronavirus, International Travel, Operator Liability and Information to Passengers) Regulations (Northern Ireland) 2021 (the “Passenger Information Regulations”) provide the requirements for persons operating commercial transport services to ensure that passengers who arrive in Northern Ireland on such services have completed a Passenger Locator Form and possess notification of a negative test result. Breach of the requirements is an offence. The Regulations also require operators to provide certain public health information to passengers using their services in travelling to Northern Ireland in the required manner on four separate occasions. Breach of this requirement is an offence.

5.3 This Statutory Rule amends the Passenger Information Regulations to remove an operator’s liability for bringing a passenger who has not completed a Passenger Locator Form or is not in possession of a negative pre-departure test result to Northern Ireland

if that passenger is being lawfully compelled to travel to the United Kingdom in the course of an extradition, prisoner transfer or deportation.

- 5.4 An amendment is also made to revise the on-board public health announcement on commercial passenger conveyances arriving in Northern Ireland.
- 5.5 This Statutory Rule also amends the Health Protection (Coronavirus, International Travel) Regulations (Northern Ireland) 2021 (“the International Travel Regulations”).
- 5.6 Dominican Republic, Eritrea, Haiti, Mongolia, Tunisia and Uganda are added to the red list for international travel following the Joint Biosecurity Centre’s latest risk assessment, owing to an increase in risk of Variants of Concern.
- 5.7 Anguilla, Antarctica/British Antarctic Territory, Antigua and Barbuda, Balearic Islands, Barbados, Bermuda, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Dominica, Grenada, Madeira, Malta, Montserrat, Pitcairn Islands, Turks and Caicos Islands are added to the green list for international travel following the Joint Biosecurity Centre’s latest risk assessment owing to a decrease in risk of Variants of Concern.
- 5.8 This Statutory Rule also provides an exemption for passengers transiting to Guernsey, Jersey or the Isle of Man via Northern Ireland from the requirement to possess a day 2/8 testing package on arrival; as these Crown Dependencies manage their own testing regime.
- 5.9 This Statutory Rule also removes the residency exemption for specialist aerospace engineers or workers so that they are only exempt from self-isolation when undertaking the exempt activity. It also removes the aircraft ban from Argentina, Brazil, Cape Verde, Chile, Ethiopia, The Maldives, Oman, Qatar, South Africa and United Arab Emirates as there are no direct flights from these countries in to Northern Ireland.

## **6. Equality impact**

- 6.1 An Equality Impact Assessment screening was not conducted for this amendment. However for the principal regulations the EQIA screening identified no disproportionate impact. Given these measures would reduce the transmission of coronavirus, there were positive benefits noted for those groups that are known to be, or suspected to be, more susceptible to the adverse effects of the virus, including older people, those with a disability and those in ethnic minority groups.
- 6.2 A human rights impact assessment was conducted for the principal Regulations to ensure compliance with the European Convention on Human Rights. This assessed the proportionality of the measures being taken and mitigations which could be considered to reduce the impact on human rights that the assessment identified.

## **7. Regulatory impact**

- 7.1 Given the rapidly evolving global situation regarding the spread of coronavirus there has been no assessment of regulatory impacts in relation to this Statutory Rule.

## **8. Financial implications**

- 8.1 Given the rapidly evolving global situation regarding the spread of coronavirus there has been no assessment of the financial impacts in relation to this Statutory Rule.

8.2 However it is likely there will be a financial impact on travel operators as there is potential for a reduction in demand as current domestic restrictions in Northern Ireland allow travel for essential reasons only.

## **9. Section 24 of the Northern Ireland Act 1998**

9.1 The Department of Health has considered section 24 of the Northern Ireland Act 1998 and is satisfied that these Regulations are not incompatible with any of the Convention rights; are not incompatible with Community law; do not discriminate against a person or class of person on the grounds of religious belief or political opinion; and do not modify an enactment in breach of section 7 of the Northern Ireland Act 1998.

## **10. EU implications**

10.1 There are unlikely to be any EU implications.

10.2 This Statutory Rule does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

## **11. Parity or Replicatory Measure**

11.1 This amendment will also be made in England, Scotland and Wales at the same time.

## **12. Additional information**

12.1 Not applicable